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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,662	05/27/2005	Wataru Tomiya	38318	9842
52054	7590	08/22/2006		EXAMINER
PEARNE & GORDON LLP 1801 EAST 9TH SRTEET SUITE 1200 CLEVELAND, OH 44114-3108				MARSH, OLIVIA MARIE
			ART UNIT	PAPER NUMBER
			2617	

DATE MAILED: 08/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/536,662	TOMIYA ET AL.
	Examiner	Art Unit
	Olivia Marsh	2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 09 June 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,3-5 and 7-10 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1,3-5 and 7-10 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

DETAILED ACTION

1. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

Response to Arguments

2. Applicant's arguments, concerning the 102(e) rejection against claims 1-10, filed June 9, 2006 have been fully considered but they are not persuasive.

Applicant states "Higuchi does not disclose any process sequence for when data from the accessed set site is being acquired and then is interrupted due to an interrupt request accepted by the phone" (paragraph 2, page 7). The Examiner respectfully disagrees. The Examiner would like to draw applicant's attention to paragraph 81 of Higuchi: "if in a case the radio wave condition is not improved, or a shortage of memory area or/and a shortage of the remaining amount of the battery occur, a warning display is performed as to an item that the downloadable condition is not satisfied, and the warning sound is output." The Examiner would also like to draw applicant's attention to paragraph 83 of Higuchi: "the controller 36 renews the reserved time within the memory 36a and the reserved time included in the reservation information within the schedule memory 48." Thus, Higuchi discloses that if there is not enough battery supply (paragraph 77, 81), the portable device will display a warning message (paragraph 82), and will reschedule the downloading period to a later time (paragraph 83), reading on claimed "the accessing process sequence setting unit sets a process sequence during interruption in the case that the own apparatus accepts an interrupt request when data is

acquired from the set site in the data acquiring process sequence." Therefore, the Examiner will maintain the rejection.

3. Applicant's arguments, see page 6, filed June 6, 2006, with respect to claim 1 have been fully considered and are persuasive. The 35 U.S.C 101 rejection of claim 1 has been withdrawn.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 1, 3-5, 7-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Higuchi et al (U.S. 2003/0050050 A1).**

As to claim 1, Higuchi discloses:

A portable terminal apparatus (mobile terminal 12), comprising:
a network access unit (transceiver circuit 32) that accesses a site on a network so as to acquire data (paragraph 54);
a data storage unit (memory card 58) that stores the acquired data thereinto (paragraph 109);
an accessing process sequence setting unit capable of arbitrarily setting an access setting condition relating to the access to the site on the network in

response to an instruction of a user, the access setting condition containing an access destination, a time instant, and a processing sequence (**paragraphs 62-63**);

an accessing process sequence storage unit that stores a series of processing sequences based upon the set access setting condition (**paragraph 65**); and an accessing process executing unit that executes a predetermined processing sequence to perform an accessing process operation to the set site in accordance with the access setting condition when the present time is reached to a preset time instant (**paragraph 72**),

wherein the accessing process sequence setting unit sets a processing sequence in at least one of an access starting process sequence for starting an access operation to the set site at the preset time instant, a data acquiring process sequence for acquiring data from the accessed site, and a data storing process sequence for storing the acquired data into the data storage unit (**paragraph 73**), and

the accessing process sequence setting unit sets a process sequence during interruption in the case that the own apparatus accepts an interrupt request when data is acquired from the set site in the data acquiring process sequence (**paragraphs 77, 81, and 83**).

As to **claim 3**, Higuchi discloses everything as applied in **claim 1** and Higuchi also discloses:

the accessing process sequence setting unit sets a process sequence during out of service area in the case that the own apparatus is located outside the service

area where communications can be performed when an access operation to the set site is commenced in the access starting process sequence (paragraph 75).

As to **claim 4**, Higuchi discloses everything as applied in claim 1 and Higuchi also discloses:

the accessing process sequence setting unit sets a process sequence during site access failure in the case that the accessing operation is failed when the set site is accessed in the data acquiring process sequence (paragraph 110).

As to **claim 5**, Higuchi discloses everything as applied in claim 1 and Higuchi also discloses:

the accessing process sequence setting unit sets a process sequence during site access failure in the case that the accessing operation is failed when the set site is accessed in the data acquiring process sequence (paragraph 75).

As to **claim 7**, Higuchi discloses everything as applied in claim 1 and Higuchi also discloses:

the accessing process sequence setting unit sets a process sequence during data acquisition failure in the case that the own apparatus fails to acquire the data when data is acquired from the set site in the data acquiring process sequence (paragraph 87).

As to **claim 8**, Higuchi discloses everything as applied in claim 1 and Higuchi also discloses:

the accessing process sequence setting unit sets a process sequence during storage memory shortage in the case that a storage capacity of the data storage unit becomes short when the acquired data is stored in the data storing process sequence (paragraph 76).

As to claim 9, Higuchi discloses everything as applied in claim 1 and Higuchi also discloses:

a retrieving unit (46) that retrieves the acquired data stored in the data storage unit (paragraph 112).

As to claim 10, Higuchi discloses everything as applied in claim 1 and Higuchi also discloses:

the accessing process sequence setting unit is capable of setting a transfer destination to which the acquired data is transferred (paragraph 120); and the portable terminal apparatus further comprises a data transferring unit (46) that transfers the acquired data to the set transfer destination (paragraph 120).

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olivia Marsh whose telephone number is 571-272-7912. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro can be reached on 571-272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



CHARLES APPIAH
PRIMARY EXAMINER